

REVENUE DEPARTMENT[701]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)"b."

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code chapter 17A and sections 421.17 and 428A.11, the Department of Revenue hereby gives Notice of Intended Action to amend Chapter 79, "Real Estate Transfer Tax and Declarations of Value," and Chapter 80, "Property Tax Credits and Exemptions," Iowa Administrative Code.

Item 1 amends subrule 79.1(3) to delete the requirement that the county recorder initial a deed to show that the real estate transfer tax has been paid.

Item 2 amends the implementation sentence for rule 701—79.1(428A).

Item 3 amends subrule 79.5(1) to update the list of property transfers that are exempt from declaration of value filing requirements.

Item 4 amends the implementation sentence for rule 701—79.5(428A).

Item 5 amends rule 701—79.6(428A) to specify that social security numbers and federal tax identification numbers on declaration of value forms are confidential and must be redacted from the declaration of value form. The implementation sentence is also amended.

Item 6 amends subrule 80.12(2) to delete the requirement that methane gas conversion property must only be used in connection with a publicly owned sanitary landfill operation to qualify for a property tax exemption and to limit the exemption for property not used in connection with a publicly owned sanitary landfill to property placed in operation between January 1, 2008, and December 31, 2012, and to further limit the exemption to a ten-year time period.

Item 7 amends the implementation sentence for rule 701—80.12(427).

Item 8 amends rule 701—80.13(427B,476B). Subrule 80.13(1) is amended to reflect the change in the statute permitting wind energy conversion property to qualify for both the production tax credit and the special valuation of the property by the local assessor. Subrule 80.13(2) is amended to clarify that if a city council or county board of supervisors has not passed an ordinance for the special valuation of wind energy conversion property, the property is to be assessed by the department of revenue. The implementation sentence is also amended.

Item 9 amends rule 701—80.26(427) to provide a property tax exemption for computers and related equipment used in the operation of a data center business. The implementation sentence is also amended.

Item 10 adopts new rule 701—80.28(404B), which provides for a tax exemption on the increase in assessed value of property attributable to the revitalization of the property in a designated disaster area.

The proposed amendments will not necessitate additional expenditures by political subdivisions or agencies and entities which contract with political subdivisions.

Any person who believes that the application of the discretionary provisions of these amendments would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any.

The Department has determined that these proposed amendments may have an impact on small business. The Department has considered the factors listed in Iowa Code section 17A.4A. The Department will issue a regulatory analysis as provided in Iowa Code section 17A.4A if a written request is filed by delivery or by mailing postmarked no later than November 9, 2009, to the Policy Section, Taxpayer Service and Policy Division, Department of Revenue, Hoover State Office Building, P.O. Box 10457, Des Moines, Iowa 50306. The request may be made by the Administrative Rules

Review Committee, the Administrative Rules Coordinator, at least 25 persons signing that request who each qualify as a small business or an organization representing at least 25 such persons.

Any interested person may make written suggestions or comments on these proposed amendments on or before October 27, 2009. Such written comments should be directed to the Policy Section, Taxpayer Service and Policy Division, Department of Revenue, Hoover State Office Building, P.O. Box 10457, Des Moines, Iowa 50306.

Persons who want to convey their views orally should contact the Policy Section, Taxpayer Service and Policy Division, Department of Revenue, at (515)281-8036 or at the Department of Revenue offices on the fourth floor of the Hoover State Office Building.

Requests for a public hearing must be received by October 29, 2009.

These amendments are intended to implement Iowa Code section 428A.5 as amended by 2009 Iowa Acts, Senate File 288, section 17; Iowa Code section 428A.4 as amended by 2009 Iowa Acts, Senate File 288, section 16; Iowa Code section 428A.7 as amended by 2009 Iowa Acts, House File 477, section 1; Iowa Code section 427.1(29) as amended by 2009 Iowa Acts, Senate File 478, section 224; Iowa Code sections 476B.4 and 476B.6(1) as amended by 2009 Iowa Acts, Senate File 456, sections 2 and 4; Iowa Code section 427.1 as amended by 2009 Iowa Acts, Senate File 478, section 200; and 2009 Iowa Acts, Senate File 457, sections 23 through 30.

The following amendments are proposed.

ITEM 1. Amend subrule 79.1(3) as follows:

79.1(3) Evidence of payment. The recorder ~~shall~~ or authorized employee of the recorder must enter the tax payment amount, ~~date of payment, and initials of the recorder or authorized employee of the recorder~~ on the face of the instrument of conveyance presented for recording.

ITEM 2. Amend rule ~~701—79.1(428A)~~, implementation sentence, as follows:

This rule is intended to implement Iowa Code chapter 428A as amended by 2009 Iowa Acts, Senate File 288, section 17.

ITEM 3. Amend subrule 79.5(1) as follows:

79.5(1) Real estate transfer—declaration of value form. A real estate transfer—declaration of value form ~~shall~~ must be completed for any deed, contract, instrument or writing that grants, assigns, transfers or otherwise conveys real property, except those specifically exempted by law, if the document presented for recording clearly states on its face that it is a document exempt from the reporting requirements as enumerated in Iowa Code section 428A.2, subsections 2 ~~to 13~~ through 5, 7 through 13, and 16 to 21, ~~or subsection 6, except in the case of a federal agency or instrumentality, or if a transfer is the result of acquisition of property for public purposes through eminent domain, or is a deed given in fulfillment of a previously recorded real estate contract.~~ A real estate transfer—declaration of value form is not required for any transaction that does not grant, assign, transfer or convey real property.

ITEM 4. Amend rule ~~701—79.5(428A)~~, implementation sentence, as follows:

This rule is intended to implement Iowa Code sections 428A.1; and 428A.2, and section 428A.4 as amended by 1999 2009 Iowa Acts, chapter 175 Senate File 288, section 16.

ITEM 5. Amend rule ~~701—79.6(428A)~~ as follows:

701—79.6(428A) Public access to declarations of value. Declarations of value are public records and ~~shall~~ must be made available for public inspection in accordance with Iowa Code chapter 22. However, if the declaration of value contains the social security number or federal tax identification number of the buyer or seller, the social security number or the federal tax identification number must be redacted by the government official in possession of the declaration of value form prior to its being released to the public.

This rule is intended to implement Iowa Code ~~chapter 428A~~ section 428A.7 as amended by 2009 Iowa Acts, House File 477, section 1.

ITEM 6. Amend subrule 80.12(2) as follows:

80.12(2) Eligibility for exemption. To qualify for exemption, the property must be used either in an operation ~~connected with, or in conjunction with, a publicly owned sanitary landfill that decomposes waste and converts it to collect methane gas or other gases produced as a byproduct of waste decomposition, then collects the gases and convert the gas~~ converts them to energy; or in an operation ~~connected with, or in conjunction with, a publicly owned sanitary landfill to collect that collects waste that would otherwise be collected by, or deposited with, a publicly owned sanitary landfill in order to decompose the waste~~ it to produce methane gas or other gases for conversion into energy. The property used to decompose the waste and convert the waste to gas is not eligible for the exemption. The exemption applies to both property used in connection with, or in conjunction with, a publicly owned sanitary landfill and to property not used in connection with, or in conjunction with, a publicly owned sanitary landfill.

The exemption for property not used in an operation connected with, or in conjunction with, a publicly owned sanitary landfill is limited to property originally placed in operation on or after January 1, 2008, and on or before December 31, 2012, and will be available for the ten-year period following the date the property was originally placed in operation.

ITEM 7. Amend rule **701—80.12(427)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code section 427.1(29) as amended by 2009 Iowa Acts, Senate File 478, section 224.

ITEM 8. Amend rule **701—80.13(427B,476B)** as follows:

701—80.13(427B,476B) Wind energy conversion property.

80.13(1) ~~Property that does not qualify for the wind energy production tax credit. Special valuation allowed by ordinance.~~ A city council or county board of supervisors may provide by ordinance for the special valuation of wind energy conversion property. If the ordinance is repealed, the special valuation applies through the nineteenth assessment year following the first year the property was assessed. Once the ordinance has been repealed and the special valuation is no longer applicable, the property ~~shall~~ must be valued at market value rather than at 30 percent of net acquisition cost. The special valuation applies to property first assessed on or after the effective date of the ordinance. The local assessor ~~shall~~ must value the property in accordance with the schedule provided in Iowa Code section 427B.26(2). The property qualifies for special valuation provided the taxpayer files a declaration of intent with the local assessor by February 1 of the assessment year in which the property is first assessed for tax to have the property locally assessed. The property ~~shall~~ must not be assessed until the assessment year following the year the entire wind plant is completed. A wind plant is completed when it is placed in service.

80.13(2) ~~Property that qualifies for the wind energy production tax credit. Special valuation not allowed by ordinance.~~ ~~The wind energy production tax credit applies to electrical production facilities placed in service on or after July 1, 2005, but prior to July 1, 2012. These facilities are~~ If a city council or county board of supervisors has not passed an ordinance providing for the special valuation of wind energy conversion property, the property is to be assessed by the department of revenue for a period of 12 years, and the taxes payable on the facilities are to be paid to the department at the same time as regular property taxes. The owner of the facility ~~shall~~ must file an annual report with the department by May 1 of each year during the 12-year assessment period, and the department ~~shall~~ must certify the assessed value of the facility by November 1 of each year to the county auditor. The board of supervisors ~~shall~~ must notify the county treasurer to state on the tax statement that the property taxes are to be paid to the department of revenue. The board ~~shall~~ must also notify the department of those facilities that are required to pay the property taxes to the department. ~~The department of revenue shall~~ must notify the county treasurer of the date the taxes were paid within five business days of receipt, and the notification ~~shall authorize~~ is authorization for the county treasurer to mark the record as paid in the county system.

This rule is intended to implement Iowa Code section 427B.26 and chapter 476B as amended by 2009 Iowa Acts, Senate File 456, sections 2 and 4.

ITEM 9. Amend rule 701—80.26(427) as follows:

701—80.26(427) Web search portal and data center business property. This exemption includes computers and equipment necessary for the maintenance and operation of a web search portal or data center business, including cooling systems, cooling towers, and other temperature control infrastructure; all power infrastructure for transformation, distribution, or management of electricity ~~used for the maintenance and operation of the web search portal~~, including but not limited to exterior dedicated business-owned substations; and power distribution systems which are not subject to assessment under Iowa Code chapter 437A; back-up power generation systems, battery systems, and related infrastructure; and racking systems, cabling, and trays, ~~which are necessary for the maintenance and operation of the web search portal~~. The exemption does not apply to land, buildings, and improvements or power distribution systems subject to assessment under Iowa Code chapter 437A. The web search portal or data center business must meet the requirements contained in Iowa Code section 423.3, subsection 92, or subsection 93, or subsection 95, for the exemption to be allowable. The owner of the property must file a claim for exemption with the assessor by February 1 of the first year the exemption is claimed. Claims for exemption in successive years ~~shall~~ will be required only for property additions.

This rule is intended to implement Iowa Code ~~Supplement section~~ sections 427.1(35) and 427.1(36) and section 427.1 as amended by 2008 2009 Iowa Acts, ~~House~~ Senate File 2233 478, section 2 200.

ITEM 10. Adopt the following new rule 701—80.28(404B):

701—80.28(404B) Disaster revitalization area. The governing body of a city or county may, by ordinance, designate an area of the city or county a disaster revitalization area if that area is within a county or portion of a county in which the governor has proclaimed a disaster emergency or the United States president has declared a major disaster. All real property within a disaster revitalization area is eligible to receive a 100 percent exemption from taxation on the increase in assessed value of the property if the increase in assessed value is attributable to revitalization of the property occurring between May 25, 2008, and December 31, 2013. The amount of increase in value shall be the difference between the assessed value of the property on January 1, 2007, and the assessed value of the property on January 1, 2010, and subsequent assessment years. The exemption is for a period not to exceed five years, starting with an assessment year beginning on or after January 1, 2010. A city or county may adopt a tax exemption percentage different from the 100 percent exemption. The different percentage adopted must not allow a greater exemption, but may allow a smaller exemption. If the homeowner elects to take the exemption provided in this rule, the homeowner may not claim any other value-added exemption. An application must be filed for each revitalization project resulting in increased assessed value for which an exemption is claimed. The application for exemption must be filed by the owner of the property with the local assessor by February 1 of the first assessment year for which the exemption is requested. After the tax exemption is granted, the exemption will continue for succeeding years without the taxpayer's having to file an application for exemption unless additional revitalization projects occur on the property. The ordinance must expire or be repealed no later than December 31, 2016.

This rule is intended to implement 2009 Iowa Acts, Senate File 457, sections 23 to 30.